

**KRIEG · DEVAULT** LLP  
ATTORNEYS AT LAW

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Mr. Greg Strack  
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Re: Retirement Medical Benefits Account Plan  
Reimbursement of Premiums to Spouses' Group Health Plans

Dear Greg:

You have asked us to offer our opinion on whether the Retirement Medical Benefits Account Plan (the "Plan") may reimburse a retiree for any premiums paid for group health insurance obtained through the retiree's spouse's employer. The Plan provides that "[P]remiums under a fully-insured policy providing group or individual coverage of the Retired Participant and/or his Covered Dependents for medical, dental, vision, and tax-qualified long-term care (subject to the limitations in Code Section 213(d)(10)) ..." may be reimbursed under the Plan. However, the Plan will not reimburse any premiums that have been paid through an Internal Revenue Code Section 125 plan or any expenses the individual "is not legally obligated to pay." The third-party administrator for the Plan has questioned whether a retiree is legally obligated to pay for coverage provided to the retiree, his spouse or his covered dependents under the spouse's employer's group health plan or if this Plan exclusion would preclude reimbursement for those expenses.

The Plan's exclusion from reimbursement for amounts the "individual is not legally obligated to pay" is included in the Plan to prevent the Plan from reimbursing a retiree for expenses that will not be paid by the employee, his spouse or his dependents. For example, if a retiree is covered by a group health plan which has in-network discounts for physicians' fees and the retiree will never be required to pay the amount of the discount, the Plan will not reimburse the retiree for the full amount of the bill but only that amount which has not been reimbursed by insurance or written down by the provider. Another example would be treatment in a Veterans' Administration hospital for an armed services-related injury or disease for which the retiree will not be charged and therefore will not be required to pay. Note that the language in the exclusion is for the "individual" not the retiree. So long as the retiree, his spouse or his dependent is required to pay the premium in order to obtain coverage under the spouse's group health plan and the spouse cannot pay the premium through his or her employer's Internal Revenue Code

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Section 125 plan, the exclusion would not apply and the premium expense could be reimbursed through the Plan.

I hope this is responsive to your question but please let me know if you need additional clarification.

Sincerely,

Deborah C. McNear

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